

REFERENCE TITLE: **body organs; removal; consent**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2628

Introduced by
Representatives Downing, Landrum Taylor, Miranda B, Sinema: Lujan,
Prezelski, Senators Garcia, Miranda, Rios

AN ACT

**AMENDING TITLE 36, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4;
RELATING TO BODY ORGAN OR TISSUE REMOVAL.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 36, chapter 7, Arizona Revised Statutes, is amended
3 by adding article 4, to read:

4 ARTICLE 4. BODY ORGAN OR TISSUE REMOVAL

5 36-861. Body organ or tissue removal; consent; exemptions;
6 classification

7 A. THE FOLLOWING FORMS OF CONSENT ARE REQUIRED FOR REMOVAL, USE OR
8 RETENTION OF ORGANS OR TISSUES FROM A DEAD BODY BY A HOSPITAL, MEDICAL
9 FACILITY, COUNTY MEDICAL EXAMINER OR FUNERAL HOME:

10 1. FOR AN ADULT DECEDENT, UNREVOKED WRITTEN CONSENT BY THE DECEDENT
11 BEFORE DEATH.

12 2. FOR A MINOR DECEDENT, UNREVOKED WRITTEN CONSENT BY THE MINOR BEFORE
13 DEATH AND TWO INDEPENDENT WITNESSES AT THE TIME OF THE CONSENT ATTESTING THAT
14 THE MINOR HAD THE MENTAL CAPACITY TO CONSENT.

15 3. FOR A DECEDENT WHO DID NOT CONSENT IN WRITING BEFORE DEATH, WRITTEN
16 CONSENT OR ORAL CONSENT IN THE PRESENCE OF TWO WITNESSES OF A SURVIVING
17 SPOUSE, A SURVIVING ADULT CHILD, A SURVIVING PARENT OR A SURVIVING ADULT
18 BROTHER OR SISTER, AFTER NOTIFICATION OF THE SPECIFIC NEED AND DURATION OF
19 THE ORGAN OR TISSUE REMOVAL, USE OR RETENTION, AND ONLY IF THE DECEDENT HAD
20 NOT EXPRESSED AN UNREVOKED OPPOSITION TO THE REMOVAL, USE OR RETENTION OF
21 ORGANS OR TISSUES.

22 B. CONSENT PURSUANT TO SUBSECTION A OF THIS SECTION IS NOT REQUIRED
23 FOR THE FOLLOWING:

24 1. SECURING SMALL SAMPLES FOR A FLUID OR TISSUE SMEAR OR A PATHOLOGY
25 SLIDE OR BLOCK.

26 2. AN EXAMINATION OR AUTOPSY BY A COUNTY MEDICAL EXAMINER PURSUANT TO
27 TITLE 11, CHAPTER 3, ARTICLE 12, IF A SPOUSE, ADULT CHILD, PARENT OR ADULT
28 BROTHER OR SISTER CANNOT BE LOCATED WITH REASONABLE EFFORT WITHIN SEVENTY-TWO
29 HOURS AFTER DEATH, OR IF SUCH CONSENT IS REFUSED AND THE MEDICAL EXAMINER
30 OBTAINS A COURT ORDER FOR THE REMOVAL, USE OR RETENTION FOR A SPECIFIC TIME
31 PERIOD.

32 3. THE TAKING OF ANATOMICAL GIFTS PURSUANT TO THE NOTICE AND
33 PROCEDURES REQUIRED IN ARTICLE 3 OF THIS CHAPTER.

34 C. EACH HOSPITAL, MEDICAL FACILITY, COUNTY MEDICAL EXAMINER AND
35 FUNERAL HOME DIRECTOR SHALL DESIGNATE ONE STAFF PERSON WHO IS INVOLVED IN
36 EXAMINATIONS OR AUTOPSIES OF DECEASED PERSONS TO BE THE FACILITY'S
37 REPRESENTATIVE FOR THE PURPOSES OF THIS SECTION.

38 D. A HOSPITAL, MEDICAL FACILITY, COUNTY MEDICAL EXAMINER OR FUNERAL
39 HOME, OR A REPRESENTATIVE OF THE HOSPITAL, FACILITY, MEDICAL EXAMINER OR
40 FUNERAL HOME, THAT VIOLATES THIS SECTION IS GUILTY OF A CLASS 6 FELONY AND IS
41 ALSO SUBJECT TO SECTION 32-1364 AND ANY OTHER CRIMINAL OR CIVIL OFFENSES AND
42 PENALTIES PROVIDED BY LAW.